

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 10-md-02183-PAS

IN RE: Brican America LLC Equipment
Lease Litigation

This Document Relates To Case No.
10-cv-22959-PAS

**ORDER DENYING MOTION TO VACATE AND GRANTING MOTION FOR LEAVE
TO FILE SECOND AMENDED COMPLAINT**

THIS MATTER is before the Court on the *Patel* Plaintiffs' Motion To Vacate [DE-34] and Motion For Leave To File A Second Amended Complaint [DE-36]. At the December 2, 2010 Status Conference, it was agreed by the Parties who attended and the Court that this MDL litigation will initially proceed on the claims asserted in the Common Complaint and that the Individual Complaints would be stayed pending resolution of the Common Complaint. Because counsel for *Patel* Plaintiffs failed to appear to the Conference, explain his absence, or attend a meeting to compose the Preliminary Report, the Court dismissed the *Patel* Complaint without prejudice [DE-25]. The dismissal of the *Patel* Complaint was not based on any mistake or misunderstanding that would warrant reconsideration under Rule 60(b). However, *Patel* Plaintiffs have joined the Common Complaint and those Plaintiffs have already been appropriately sanctioned with a dismissal of their First Amended Complaint without prejudice. As a result, it is hereby

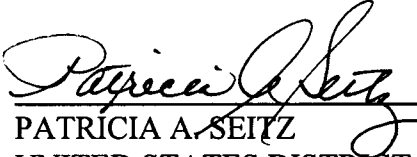
ORDERED THAT

- (1) The Motion To Vacate [DE-34] is DENIED.
- (2) The Motion For Leave To File A Second Amended Complaint [DE-36] is GRANTED. *Patel* Plaintiffs shall file a Second Amended Complaint as proposed no

later than **January 3, 2011**. As with the *Blauzvern* and *Wigdor* Complaints, Defendants shall not file a response to the Second Amended Complaint and proceedings with respect to the Second Amended Complaint are stayed until further Order.

(3) To supplement the previous information provided in Pretrial Order #1 [DE-25] about remote participation in Conferences, and to clarify any misunderstanding, the Court's videoconference system can accommodate multiple participants (up to six) who wish to call in separately. However, the phone system can only accommodate one line, requiring multiple parties who want to participate telephonically to call in from a single line.

DONE and ORDERED in Miami, Florida, this 21st day of December, 2010.


PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE

cc:

Magistrate Judge John J. O'Sullivan
All Counsel of Record

The Honorable Michael D. Huppert
State of Iowa District Court, District 5C
500 Mulberry Street, Room 212
Des Moines, IA 50309